

Amend Section 29.80
Title 14, California Code of Regulations
Re: Gear Restrictions

- There was no specific opposition to the proposed regulation.

At the August 18, 2010 meeting, Paul Weakland stated that a status report should be made available regarding the number of sport anglers using hoop nets and was concerned with poaching. While neither of these items directly address the proposed changes covered by these regulations, ongoing programs like the lobster report cards and the development of the Fisheries Management Plan should provide for these concerns.

There was a letter written to the commission, dated July 22, 2010, by Josh Fisher. Mr. Fisher's letter addressed concerns regarding mechanized pullers in regards to pulling sport lobster gear. Mr. Fisher related that he thought mechanized pullers should have been addressed in the regulation.

At the August 18, 2010 meeting, Mike McCorkle also addressed the issue of mechanized pullers and their use for sport lobster gear. Mr. McCorkle said with the allowed use of mechanized pullers for sport gear, there would be more hoop nets placed in deep waters where large female lobsters live. He also said there is more chances of his commercial fishing gear to be pulled if sport boats were allowed to have mechanized pulling gear. He proposed a slot size limit for sport lobster.

Comments:

The Department will be conducting a Fishery Management Plan for lobster. In this plan it plans to address the issue of mechanized pullers for sport lobsters. The Commission also discussed this issue. They agreed that these concerns did not relate to the proposed changes under this rulemaking, and mechanized pullers should be discussed at the Marine Resources Committee meetings in the future. If it is decided that mechanized pullers should be addressed in the regulation, a new proposal will be brought forward to the Commission.

VI. Location and Index of Rulemaking File:

A rulemaking file with attached file index is maintained at:
California Fish and Game Commission
1416 Ninth Street
Sacramento, California 95814

VII. Location of Department files:

Department of Fish and Game
1416 Ninth Street
Sacramento, California 95814

VIII. Description of Reasonable Alternatives to Regulatory Action:

(a) Alternatives to Regulation Change:

Allow lobsters to be taken with traps. This alternative would increase the take of lobsters and have the possibility of affecting the lobster population. It would also increase the efficiency of harvesting lobster which would likely increase the illegal take of sport lobster and their commercialization.

(b) No Change Alternative:

The no change alternative would allow the current confusion to continue with no clear guidance as to what is or is not a legal hoop net.

(c) Consideration of Alternatives:

In view of information currently possessed, no reasonable alternative considered would be more effective in carrying out the purposes for which the regulation is proposed or would be as effective as and less burdensome to the affected private persons than the proposed regulation.

X. Impact of Regulatory Action:

The potential for significant statewide adverse economic impacts that might result from the proposed regulatory action has been assessed, and the following determinations relative to the required statutory categories have been made:

(a) Significant Statewide Adverse Economic Impact Directly Affecting Businesses, Including the Ability of California Businesses to Compete with Businesses in Other States:

The proposed action will not have a significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states. The proposed action allows for a better definition of gear restrictions and enforcement, and is economically neutral to business.

(b) Impact on the Creation or Elimination of Jobs Within the State, the Creation of New Businesses or the Elimination of Existing Businesses, or the Expansion of Businesses in California:

None.

(c) Cost Impacts on a Representative Private Person or Business:

The Initial Statement of Reasons stated that the proposed action may have a minor economic impact on those who currently sell or possess the new style hoop net which has the ring that is held above the ocean floor when deployed. However, the measurements used to develop the wording for the size of the hoop nets was developed using existing style hoop net measurements making these existing hoop nets easily modified or because existing hoop nets can still sold via other avenues and in other states it has been determined that any possible economic impact will be minimal.

No reasonable alternative considered by the Commission will be more effective in carrying out the purpose for which the action is proposed.

(d) Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State:

None.

(e) Nondiscretionary Costs/Savings to Local Agencies:

None.

(f) Programs mandated on Local Agencies or School Districts:

None.

(g) Costs Imposed on Any Local Agency or School District that is Required to be Reimbursed Under Part 7 (commencing with Section 17500) of Division 4:

None.

(h) Effect on Housing Costs:

None.

Updated Informative Digest/Policy Statement Overview

Under current regulation (Section 29.80 (b), Title 14, CCR) spiny lobster and crab may be taken by “baited” hoop nets. Not more than five baited hoop nets may be used by a person, not to exceed a total of 10 baited hoop nets from any vessel. The Department proposes removing the word “baited” so that anyone who has more than five hoop nets in their possession while fishing; or more than 10 hoop nets on a vessel are in violation of the law without determining whether they were baited.

The department is also proposing two definitions of a hoop net. The definitions encompass the traditional style hoop net that lies flat on the ocean floor as well as the new style hoop net that has the second smaller ring supported above the ocean floor.

It is recommended that these regulation changes become effective April 1, 2011. This will allow the Department to inform the public of the change in the regulation and provide a timely transition for those needing to comply with the new regulation.

Traps are illegal to use when taking lobsters. These new hoop net definitions will assist wardens and the public in determining if a device used to take lobsters is considered a trap or a hoop net.

The Fish and Game Commission adopted the proposed regulations as noticed at its August 18, 2010 teleconference meeting. Non-substantial changes and additions were made to correct typographical errors, fix formatting issues and improve the clarity of the text of the regulations.